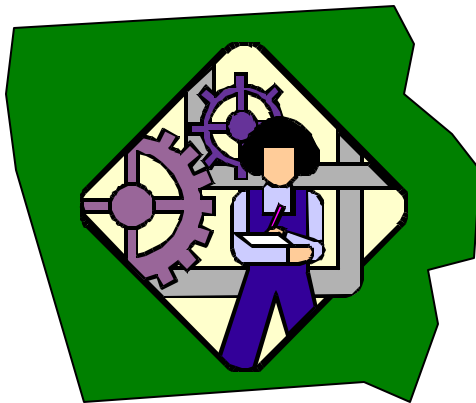


**Questions and
Answers About
Workers'
Compensation
Law For Injured
Workers**



Effective
July 1, 2001 – June 30, 2002

This brochure answers questions injured workers commonly ask about workers' compensation. You may check Iowa Code chapters 85 through 87 and 17A, as well as Iowa Administrative Code chapter 876, for detailed information. References to Iowa Code sections and Iowa Administrative Rules appear in parentheses.

WHAT IS WORKERS' COMPENSATION?

The Iowa Workers' Compensation law requires most employers to provide wage loss and medical benefits to employees who are injured while working. [85.61(7)]

WHAT TYPES OF INJURIES ARE COVERED?

In Iowa, an injury may include any health condition caused by work activities other than the normal building up and tearing down of body tissues. Diseases and hearing losses caused by work activities or exposures are also injuries. (85A, 85B)

Preexisting health conditions are not considered injuries unless work aggravates or worsens them.

WHO IS ELIGIBLE FOR WORKERS' COMPENSATION BENEFITS?

Most employees who are injured in Iowa while working in Iowa are eligible for benefits. Employees hired in Iowa or whose employment is principally in Iowa may be eligible for benefits even if they are injured outside of the state. (85.71)

The law exempts a few types of employees, however. If you are uncertain as to whether employees in your job classification are eligible for benefits, consult with a Workers' Compensation Compliance Administrator with the Division of Workers' Compensation.

Proprietors (independent contractors), limited liability company members and partners are not considered employees. These individuals may be eligible for benefits if they purchase a workers' compensation insurance policy that specifically includes them. [85.1A, 85.61(13)]

WHO CHOOSES THE MEDICAL CARE?

The employer has the right to choose the medical care and must provide medical care reasonably suited to treat your injury. If you are dissatisfied with that care, you should discuss the problem with your employer (or its insurance carrier). You can request alternate care, and if your employer (or its carrier) does not allow that care, you may file a petition for alternate medical care before the Iowa Workers' Compensation Commissioner. (85.27)

If an employer-retained physician gives a rating of permanent impairment that you feel is too low, you may have another examination by a doctor of your choice at your employer's expense. (85.39)

HOW ARE DISPUTES HANDLED?

When you and your employer (and its insurance carrier) work together and openly communicate, the majority of workers' compensation claim disputes can be resolved. You have a right to know why your employer (and its carrier) has taken any action and the relevant evidence supporting the action.

When a dispute cannot be resolved among the parties, you are encouraged to contact a Workers' Compensation Compliance Administrator in the Iowa Workers' Compensation Commissioner's Office to discuss the situation. If the dispute cannot then be resolved, you may file a contested case proceeding before the Iowa Workers' Compensation Commissioner. While the commissioner does not require it, most employees are represented by legal counsel in a contested case proceeding.

Who Oversees Disputes?

The Iowa Workers' Compensation Commissioner is the head of the Division of Workers' Compensation which is part of Iowa Workforce Development. The commissioner is responsible for administering, regulating and enforcing the workers' compensation laws. By law, the Division of Workers' Compensation cannot represent the interest of any party. The Division does provide information regarding the workers' compensation law, the rights of the parties and the procedures the parties can follow to resolve their disputes.

WHO PAYS THE BENEFITS?

Employers subject to the law must either purchase insurance through a private insurance company or qualify as a self-insurer. (85.3, 87.1, 87.11)

If the employer provides coverage by purchasing an insurance policy, the insurance company (or a claim administrator) pays the injured worker the workers' compensation benefits. If the employer is self-insured, the employer (or a claim administrator) pays the injured worker the workers' compensation benefits.

If an employer fails to provide insurance coverage as the law provides, the employee may choose to either file a contested case proceeding before the Workers' Compensation Commissioner or to bring a civil action for damages in the appropriate district court. (87.21)

An employer must either obtain workers' compensation insurance coverage or obtain relief from insurance or furnish a bond before engaging in business. An employer who willfully and knowingly engages in business before doing any of these is guilty of a class "D" felony. (87.14A)

TYPES OF BENEFITS

I. MEDICAL BENEFITS

Your employer must pay for all reasonable and necessary medical care required to treat your injury. This includes reasonable and necessary travel expenses for treatment. Mileage for use of a private car is reimbursed at 29 cents per mile. (85.27)

Under certain circumstances, if you are required to leave work for medical treatment, you may receive payment of lost wages. (85.27)

A medical care provider cannot seek payment of charges for treatment from you while a contested case proceeding or a dispute as to the reasonableness of a medical treatment fee is pending before the Workers' Compensation Commissioner. (85.27)

II. DISABILITY BENEFITS

Your total weekly compensation benefit may not be greater than 80 percent of your spendable earnings. The law defines "spendable earnings" as the amount remaining after payroll taxes are deducted from gross weekly earnings.

Your average gross weekly earnings, number of income tax exemptions and marital status determine your weekly disability benefit amount.

- The weekly benefit amount is based on a seven day calendar week.
- The maximum weekly disability benefit rate for PPD is \$984.00.
- The maximum weekly disability benefit rate of TTD, HP, PTD, and death benefits is \$1069.00.

Types of disability benefits

Temporary Total Disability (TTD) [85.32, 85.33(1)]
When you are off work more than three calendar days on account of injury, you may be entitled to TTD benefits beginning on the fourth day and continuing until you return to work or are medically recovered enough to return to similar work, whichever happens first. If you are off work for more than 14 calendar days, you may be entitled to payment for the three-day waiting period.

Temporary Partial Disability (TPD) [85.33(2-5)]
If you return to work at a lesser paying job because of the injury, you may be entitled to benefits. The benefit amount is $66 \frac{2}{3}$ percent of the difference between your average gross weekly earnings when injured and your actual earnings while temporarily working at the lesser paying job. The three-day waiting period (explained above) also applies to temporary partial disability.

Healing Period (HP) [85.34(1)]
You may be entitled to HP benefits while recovering from an injury which produces a permanent impairment. These benefits begin on the first calendar day after the date of injury and continue until the first of the following occurs:

- you return to work;
- you have recovered as much as anticipated from the injury; or
- you are medically capable of returning to the same kind of work you did when injured.

No waiting period applies to HP benefits.

Permanent Partial Disability (PPD) [85.34(2)]

When your work injury results in either permanent functional impairment to your body or in your inability to earn wages similar to those you earned before your injury, you may be entitled to PPD benefits. PPD benefits are in addition to healing period benefits and begin when the healing period ends. There are two types of PPD benefits:

Scheduled Member Disabilities – If your injury is to a scheduled member your PPD benefits are based on functional impairment. Appendix A gives a list of the scheduled body members (i.e. arm, leg, etc.) along with the number of weeks of benefits you would receive for the full loss of each member. If your impairment is less than a full loss, the number of weeks of PPD benefits you may receive is a percentage of loss or loss of use multiplied by the full number of weeks for the member.

Body As A Whole Disabilities – When your work injury results in permanent disability to a part of the body not included as a scheduled member, the disability is considered industrial and is determined by assessing the difference between what you were able to earn prior to the injury and what you are able to earn after the injury. A variety of factors influence the assessment of lost earning capacity. These include the medical condition before the injury, immediately after the injury and now; the part of the body injured; how long you needed to recover from the injury; your work experience and your qualifications intellectually, emotionally, and physically to learn to perform other work; your earnings before and after the injury; your age; education; motivation; functional impairment related to the injury, and loss of ability to do your old job; or loss of earnings because of the injury.

No specific guidelines advise how any factor is to be considered in a particular case. Each industrial disability case must be decided on its facts. Industrial disability is calculated on a 500 week basis with the percentage rating multiplied by 500 weeks.

Permanent Total Disability (PTD) [85.34(3)]

If your work related injury leaves you incapable of returning to any type of wage earning employment, you may be entitled to permanent total disability benefits during that time when you cannot return to any gainful work.

III. OTHER BENEFITS

A. Second Injury Fund Benefits (85.63-85.69)

If you have had a permanent disability to a hand, arm, foot, leg or eye and then have a job related injury that results in permanent partial disability to another hand, arm, foot, leg or eye, you may be entitled to “Second Injury Fund” benefits. These benefits are paid for any amount that industrial

disability is greater than the combined scheduled member disability from both the first and second disabled member. These benefits are only paid after your employer or its insurance carrier has paid all scheduled member permanent partial disability benefits due on account of the second injury.

If you believe you are entitled to benefits from this Fund, contact the State of Iowa Treasurer's Office to obtain a claim form. (515)281-5366.

B. Vocational Rehabilitation Benefits (85.70)

You may be entitled to payment of \$20.00 per week for up to 13 weeks if you are actively participating in a vocational rehabilitation program in order to make it possible for you to return to gainful employment after your injury. If you continue in vocational rehabilitation, the workers' compensation commissioner may extend the \$20.00 for an additional 13 weeks.

The Iowa Division of Vocational Rehabilitation Services (DVRS) assists persons with disabilities to prepare, obtain and maintain employment. Contact the division at:

**Division of Vocational Rehabilitation Services
510 E. 12th St.
Des Moines, IA 50319
1-800-532-1486
In Des Moines area call 281-4138**

C. Death Benefits (85.28, 85.31, 85.42, 85.43, 85.44)

If you were dependent on someone who had died as a result of an on the job injury, you may be eligible to receive death benefits. A surviving spouse may receive death benefits for life or until remarriage. Dependent children are entitled to death benefits until age 18 or, if actually dependent, age 25. Other persons may qualify for death benefits if they were actually dependent upon the deceased worker. If a surviving spouse remarries and the deceased worker has no dependent children at the time of the remarriage, the surviving spouse is entitled to a two-year lump sum settlement. In addition to the weekly death benefits, the deceased worker's employer (or its insurance carrier) must pay burial expenses of up to \$5000.00.

WHEN ARE THE BENEFITS TO BE PAID?

The law encourages prompt payment of weekly and medical benefits so that injured workers will not suffer undue hardship. Most insurance carriers or self-insured employers require a written report of injury (usually from the employer) and medical evidence of the injury before beginning payments. Weekly payments of disability benefits are to begin on the eleventh day of disability. If benefits are not paid when due, you may be entitled to interest on late payments. If benefits are unreasonably delayed or denied, you may be entitled to penalty benefits. (85.30, 86.13)

Once benefits start, payments can only stop when you have returned to work or after your employer (or its carrier) has given you thirty days notice that payments are stopping. The notice must tell you why payments are stopping and advise you that you may file a claim with the Workers' Compensation Commissioner. (86.13)

TYPES OF SETTLEMENTS

The Workers' Compensation Commissioner must approve all settlements involving work injuries. The law allows four different types of settlements:

Full Commutation (85.45, 85.47)

A full commutation pays all remaining future benefits in one lump sum. Because an approved full commutation ends all rights to additional weekly or medical benefits, it must show that you have a specific need for the full benefit payment now, such that the lump sum payment is in your best interest.

Partial Commutation (85.45, 85.47, 85.48)

A partial commutation pays a part of remaining future weekly benefits in a lump sum. An approved partial commutation contains you and your employer's (and its carrier's) agreement that you are entitled to disability benefits. It does not end your right to future weekly or medical benefits.

Agreement for Settlement (86.13)

An agreement for settlement is a voluntary agreement between you and your employer (and its carrier) as to the amount and type of compensation payments you are currently due. The Workers' Compensation Commissioner's approval of the agreement does not end your future rights to additional weekly benefits or additional medical benefits.

Compromise Settlement (85.35)

A compromise settlement is possible when you and your employer (and its carrier) disagree as to whether you are entitled to receive workers' compensation benefits. An approved compromise settlement ends any rights to future weekly or medical benefits for the settled injury.

TIME LIMITATIONS

● **NOTICE OF INJURY** (85.23)

Unless your employer has notice or knowledge of your asserted injury within 90 days of its occurrence, you may be denied benefits. The 90-day period begins to run when you knew or should have known that your injurious condition related to your work. When an employee reports a work related injury, the employer must file a first report of injury if the employee loses more than three days of work, or sustains permanent injury or death on account of the injury. The employer (or its carrier) must file the first report within four days of notice or knowledge of the alleged injury with the Workers' Compensation Commissioner.

● **TWO-YEAR STATUTE OF LIMITATION** (85.26)

You must receive Iowa weekly workers' compensation benefits or file an application for arbitration within two years of your alleged injury or benefits may be denied.

● **THREE-YEAR STATUTE OF LIMITATION** (85.26)

If you have received Iowa weekly workers' compensation benefits, you have three years from the last payment of those weekly benefits to receive additional benefits voluntarily, or to file a contested case proceeding for benefits. If you do not file within the three-year period you may be denied additional weekly benefits. (You can file a contested case proceeding or voluntarily receive medical benefits reasonable and necessary to treat your injury throughout your lifetime.)

HOW IS MEDICAL INFORMATION OBTAINED?

Any party making or defending a claim for benefits agrees to release all information concerning the employee's physical or mental condition relative to the claim and waives any privilege for the release of such information. The information shall be made available to any party or the party's representative upon request. (85.27)

APPENDIX A

| | WEEKS |
|--|--------------|
| Loss of thumb | 60 |
| Loss of first finger | 35 |
| Loss of second finger | 30 |
| Loss of third finger | 25 |
| Loss of fourth finger | 20 |
| Loss of hand | 190 |
| Loss of arm | 250 |
| Loss of great toe | 40 |
| Loss of any other toe | 15 |
| Loss of foot | 150 |
| Loss of leg | 220 |
| Loss of eye | 140 |
| Loss of hearing in one ear | 50 |
| Loss of hearing in both ears | 175 |
| Permanent disfigurement, face or head | 150 |
| Body as a whole/industrial disability | 500 |

Appendix A contains the number of weeks of benefits payable for 100% loss, or loss of use, of the body member. If the PPD rating is less than 100%, the percentage rating is multiplied by the number of weeks shown. For example, a 20% loss, or loss of use, of a thumb would be computed as 20% of 60 weeks, or 12 weeks of PPD benefits.

**Iowa Workforce Development
Division of Workers' Compensation
1000 East Grand Avenue
Des Moines, Iowa 50319**

515-281-5387

or

**1-800-JOB IOWA
(1-800-562-4692)**

or

<http://www.iowaworkforce.org/wc>

**Monday – Friday
8:00 a.m. – 4:30 p.m.**

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